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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,468	01/22/2004	Patrick A. Wochnick	6486-67123	6666

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,468

Applicant(s)

WOCHNICK, PATRICK A.

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16, 23-33 and 40-42 is/are rejected.
- 7) ☒ Claim(s) 17-22, 34-39 and 43-45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/22/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

This is the first Office Action for the application serial number 10/763,468, PIPE SUPPORT APPARATUS, filed on 1/22/04.

Specification

The disclosure is objected to because of the following informalities: On page 1, line 1, "U.S. Serial No. 10/195,091" should be changed to ---U.S. Patent # 6,685,144---.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6, 11-16, 28-33 and 40-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 6,685,144. Although the conflicting claims are not identical, they are not patentably distinct from each other because '144 teaches base member, elongated flexible strap, latching mechanism

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with bearing member and supplementary connector. The strap is wrapped around the pipe and the supplementary connector is connected to a support structure.

Claims 7-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 6,685,144 in view of US Patent # 5,112,013 to Tolbert. '144 teaches the positioning elements but fails to teach the positioning elements comprise projection on the base and a detent on supplementary connector. Tolbert teaches the positing elements (42,44,46,48, 70 and 72) comprising projection on the base and detent on supplementary connector. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added projection to base and detent to supplementary connector to provide a detachable connecting support between the base and supplementary connector for convenience of mounting pipe on the support structure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 5,112,013 to Tolbert et al.

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Tolbert et al. teaches an apparatus for supporting a pipe comprising a base member (36), an elongated flexible strap (12) secured to the base member, the strap having ratchet teeth formed along one side thereof (32) and a latching mechanism (24) through which a portion of the strap may move longitudinally along a path. The latching mechanism comprises a pawl (teeth part of element 30) and bearing member (opposite side of pawl and adjacent to element 16). The pawl has an extension portion (30). The base member is secured to the strap intermediate and spaced from opposite ends of the strap. The latching mechanism is secured adjacent one end of the strap and is positioned to receive the opposite end of the strap. The strap is adapted to be wrapped around a pipe to be supported (figure 8). The strap having an inner face positioned to engage a pipe and an opposite outer face. The latching mechanism projects outwardly from the outer face. The base member extends outwardly from the outer face. The apparatus comprises a supplementary connector (14) having an opening formed therein (60). The base member and supplementary connector having interengaging positioning elements (42,44,46,48, 70,72). The positioning elements comprise a projection (42) on one of the base member and a detent (70) on supplementary connector for releasably receiving the projection. The diverging side portions of the base member and the slot have complementary dove-tail shaped configurations.

Claims 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 5,746,401 to Condom.

Condom teaches an apparatus for supporting a pipe comprising an elongated flexible strap (64), latching mechanism (68), an elongated support member (116) and a supplementary connector (118) having an opening formed. The opening comprises a cavity complementary to

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the configuration of the support member for receiving and holding the end of the support member. The support member is cylindrical and the cavity is substantially cylindrical. The supplementary connector comprises a base portion (62). The base portion having first and second walls extending axially outwardly thereof.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 15-16, 23-28, 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tolbert et al.

Tolbert et al. teaches an apparatus for supporting a pipe comprising a base member (36), an elongated flexible strap (12) secured to the base member, the strap having ratchet teeth formed along one side thereof (32) and a latching mechanism (24) through which a portion of the strap may move longitudinally along a path. The latching mechanism comprises a pawl (teeth part of element 30) and bearing member (opposite side of pawl and adjacent to element 16). The pawl has an extension portion (30). The base member is secured to the strap intermediate and spaced from opposite ends of the strap. The latching mechanism is secured adjacent one end of the strap and is positioned to receive the opposite end of the strap. The strap is adapted to be wrapped around a pipe to be supported (figure 8). The strap having an inner face positioned to engage a pipe and an opposite outer face. The latching mechanism projects outwardly from the

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outer face. The base member extends outwardly from the outer face. The apparatus comprises a supplementary connector (14) having an opening formed therein (60). The base member and supplementary connector having interengaging positioning elements (42,44,46,48, 70,72). The positioning elements comprise a projection (42) on one of the base member and a detent (70) on supplementary connector for releasably receiving the projection. The diverging side portions of the base member and the slot have complementary dove-tail shaped configurations. The apparatus includes an elongated support member (76). The base member has an opening extending therethrough (located between elements 54 and 56 in figure 7). The supplementary connector has an opening extending therethrough (68).

Tolbert et al. teaches the supplementary connector having a first opening (60) formed therein for receiving and holding the base member but fails to teach the supplementary connector includes a second opening formed therein for receiving and holding a portion of the support member. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the supplementary connector with second opening to provide detachable support for replacing the worn elongated support.

In regard to claims 23-25, Tolbert et al. teaches a stabilizer member (50,52) but fails to teach the stabilizer member projects outwardly from the outer surface in a region spaced from the base member. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the stabilizer member on the outer surface of the strap to provide a spacer between the strap and the supplementary connector and to provide strength for the strap to support the pipe of the apparatus is used to mount on floor rather than on the ceiling.

In regard to claims 26-27, Tolbert et al. teaches the stabilizer member but fails to teach the stabilizer member comprising a second portion having a second bearing surface spaced a second distance outwardly from the outer surface of the strap. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the stabilizer member with a second portion having a second bearing surface spaced a second distance outwardly from the outer surface of the strap to provide designer's choice for the shape of stabilizer member.

Allowable Subject Matter

Claims 8, 17-22, 34-39 and 43-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regards to claim 8, the prior art fails to teach wherein the base member has a hole extending therethrough, the supplementary connector has a hole extending therethrough, and the holes are aligned when the base member and supplementary connector are held in selected positions. In regard to claims 17-22 and 34-39, the prior art fails to teach the supplementary connector comprises an end cap having a cavity complementary to the configuration of the support member to receive and hold the end of the support member. In regard to claims 43-45, the prior art fails to teach wherein the second wall section is removable from the base portion and the first wall section defines a semi-circular boundary for the cavity permitting the support member to be inserted laterally into the cavity.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Examiner
Art Unit 3632



8/8/05